

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA	X	
	:	
-against-	:	AFFIDAVIT OF ELLIOTT Z. STEIN
	:	
MONZER AL KASSAR,	:	S3 07 Cr. 354 (JSR)
TAREQ MOUSA AL GHAZI, and	:	
LUIS FELIPE MORENO GODOY	:	
	:	
Defendants.	:	
	X	

**AFFIDAVIT OF ELLIOTT Z. STEIN IN SUPPORT OF MONZER AL KASSAR'S
MOTION TO DISMISS THE INDICTMENT AND OTHER RELIEF**

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

ELLIOTT Z. STEIN, being duly sworn, hereby deposes and says under penalty of perjury:

1. I am an attorney duly licensed to practice law in the State of New York, and an associate in the law firm of Dickstein Shapiro, LLP, 1177 Avenue of the Americas, New York, New York 10036.
2. I make this Affidavit in support of Monzer Al Kassar's Motion To Dismiss The Indictment And Other Relief.
3. I have reviewed a number of the draft transcripts and email cited herein that were produced by the government.
4. I have not reviewed all the transcripts or emails that were produced by the government.

5. I have also reviewed the affidavits cited herein that were sworn to by government agents before this Court in support of the Defendants' extradition. Specifically, I have reviewed the Affidavits of DEA Special Agent William Brown in Support of Request for Extradition (hereinafter "William Brown Affidavits") (July 17, 2007 Affidavit attached as Exhibit A; July 24, 2007 Affidavit attached as Exhibit B), both of which were attached to the sworn affidavits of AUSA's in this case in support of extradition.
6. I found the following material discrepancies between the William Brown Affidavits and the draft transcripts:
 - a. The William Brown Affidavits represent that in a March 6, 2007 telephone conversation, the government informant¹ and Al Ghazi "talked about the need for Al Kassar to get quantities of C4 explosives for CS-1, CS-2, and the FARC." *See* William Brown Affidavits (Ex. A at ¶36, Ex. B at ¶46). The William Brown Affidavits further represent that the informant and Al Ghazi discussed "issues relating to the commissions both men hoped to obtain from Al Kassar as part of the deal." *Id.* However, contrary to the affidavits, the draft transcript of the March 6, 2007 phone call (attached as Exhibit C) includes not a single mention of FARC, nor does it include any mention of commissions, and the only reference to C4 does not come close to suggesting "the need for Al Kassar to get quantities of C4 explosives."

¹ The government's labeling of informants is inconsistent across affidavits. For example, in the July 17, 2007 William Brown Affidavit, the informant participating in this conversation is W-5, but in the July 24, 2007 William Brown Affidavit, the informant participating in this conversation is W-3.

- b. The William Brown Affidavits represent that in a phone conversation on April 18, 2007, Al Kassar and CS-1 discussed “the logistics of transporting the weapons to the FARC.” *See* William Brown Affidavits (Ex. A at ¶47, Ex. B at ¶59). Aside from the fact that, according to the transcript (attached as Exhibit D), the purported conversation is between Al Kassar and CS-2, not CS-1, the transcript contains no reference whatsoever to FARC.
- c. The William Brown Affidavits represent that in a May 9, 2007 phone conversation between CS-1 and Al Kassar, “Al Kassar also told CS-1 that FARC was not moving forward with the weapons transaction quickly enough, and that the group would soon have to make a significant payment.” *See* William Brown Affidavits (Ex. A at ¶53, Ex. B at ¶65). Contrary to the affidavits, however, the transcript of that conversation (attached as Exhibit E) contains no reference whatsoever to FARC.
- d. The William Brown Affidavits represent that in a May 10, 2007 telephone conversation, “CS-1 informed Al Kassar that CS-1 and his people were having difficulty procuring another end-user certificate to list the additional weapons, including the surface-to-air missile systems, that the FARC had ordered from Al Kassar.” *See* William Brown Affidavits (Ex. A at ¶57, Ex. B at ¶69). However, contrary to the affidavits, the draft transcript of the May 10, 2007 phone calls (attached as Exhibit F) include not a single mention of FARC, nor do they include any reference to anything remotely suggesting surface-to-air missiles.
- e. The William Brown Affidavits represent that in a May 20, 2007 telephone call, “CS-1 informed Moreno that the FARC had € 3.5 million that CS-1

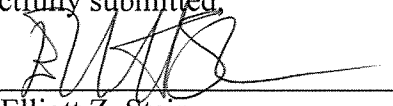
could deliver to Al Kassar in Romania to pay for the weapons.” *See* William Brown Affidavits (Ex. A at ¶59, Ex. B at ¶71). Contrary to the affidavits, however, the transcript of that call (attached as Exhibit G) contains no reference whatsoever to FARC.

- f. The William Brown Affidavits represent that in a May 22, 2007 telephone call, “CS-1 told Al Kassar that the FARC had € 3.5 million Euros in Romania to provide to the weapons manufacturer” and “CS-1 also told Al Kassar that the FARC had approximately € 2 million in Greece that could be used for the weapons deal.” *See* William Brown Affidavits (Ex. A at ¶61, Ex. B at ¶73). Contrary to the affidavits, however, the transcript of that call (attached as Exhibit H) contains no reference whatsoever to FARC.
- g. The William Brown Affidavits represent that in a May 25, 2007 email, “CC-1 informed Moreno and Al Kassar that their boat, the M/V Anastasia, was on the Arab blacklist, and therefore might not be available to transport the weapons to the FARC.” *See* William Brown Affidavits (Ex. A at ¶63, Ex. B at ¶75). Contrary to the affidavits, however, the email (attached as Exhibit I) contains no reference whatsoever to FARC.

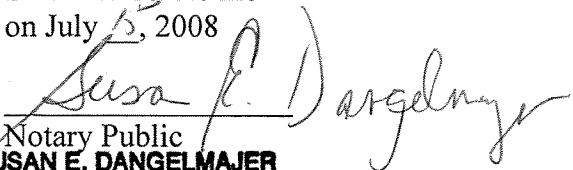
Dated: July 15, 2008

Respectfully submitted,

By:


Elliott Z. Stein
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Tel. (212) 277-6500
Attorneys for Monzer Al Kassab

Sworn to before me
on July 15, 2008


Notary Public
SUSAN E. DANGELMAIER
Notary Public, State of New York
No. 01E86071856
Qualified in New York County
Commission Expires March 25, 2010